

NOTICE OF EFFECTIVE DATE OF REGULATION CHANGE

California Code of Regulations Title 2. Administration Division 1. Administrative Personnel

DATE: June 4, 2004

TO: ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND
MEMBERS OF THE GOVERNOR'S CABINET

SUBJECT: California Code of Regulations Title 2, § 250 – Requirement That
Selection Be Based on Merit and Fitness

This memorandum is to advise you that California Code of Regulations (CCR) Title 2, § 250 as presented to and adopted by the State Personnel Board (SPB) on September 9, 2003, became effective on May 17, 2004. A copy of the final regulation is attached and will be published in the CCR, Title 2, Division 1, § 250.

By explicitly defining merit and fitness, Rule 250 clarifies the State's Constitutional mandate to utilize a selection system based on merit and fitness when making permanent appointments and promotions in the State's civil service. In addition, it clarifies that merit in the State's selection system extends beyond the administration of civil service examinations and the establishment of eligible lists. Specifically, the State's selection system encompasses all steps in the selection process, including recruitment and advertising, testing for the establishment of eligible lists, hiring interviews, background/reference checks, medical evaluation, drug testing, psychological screening, and civil service probation.

With the adoption of Rule 250, SPB codifies every department's obligation to conduct merit-based examinations and selection processes. Under the provisions of Government Code § 18930.5, SPB has delegated to departments the design, announcement, and administration of examinations for the establishment of lists. Departments, in administering their decentralized testing program, share a significant role in promoting and upholding a meritorious State selection system that satisfies the Constitutional mandate and the provisions of Rule 250. Departments, therefore, must apply these merit principles to each selection and testing process by

inviting broad and inclusive competition, utilizing sound testing devices for the competitive assessment of job-related qualifications, and providing fair and equitable treatment of applicants and employees on an equal opportunity basis.

SPB is committed to providing departments with assistance and guidance in maintaining the quality and integrity of the State's merit-based selection and testing activities. SPB offers state-of-the-art instructional curriculum for the development of selection analysts through our Technical Training Program. The Selection Analyst Training Program consists of a series of classes leading to the achievement of a Certified Selection Analyst designation. The Merit Selection Manual provides a further resource for departmental decentralized testing staff. In addition, SPB's Test Validation and Construction (TV&C) staff are available to assist departments in the development and implementation of examinations.

Contact Person:

Inquiries regarding this rule may be directed to Elizabeth Montoya at the State Personnel Board, P. O. Box 944201, Sacramento, California 94244-2010 or call (916) 653-0818, TDD (916) 653-1498.

Laura Aguilera
Interim Executive Officer

Attachment: Text of Final Regulation

Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1. General Civil Service Regulations
Article 10. Appointments

§ 250. Requirement That Selection Be Based on Merit and Fitness.

(a) Appointments to positions in the State civil service made from eligible lists in a manner consistent with provisions of Sections 254, 254.1, and 254.2 as related to the certification of eligibles, by way of transfer, as defined in Government Code Section 18525.3, or by way of reinstatement, as defined in Government Code Section 19140, shall be made on the basis of merit and fitness, defined exclusively as the consideration of each individual's job-related qualifications for a position, including his/her knowledge, skills, abilities, experience, education, training, physical and mental fitness, and any other personal characteristics relative to job requirements, as determined by candidate performance in selection procedures, including, but not limited to, hiring interviews, reference checks, background checks, and/or any other procedures, which assess job-related qualifications and are designed and administered to select those individuals who best meet the selection need.

(b) Eligible lists shall be created on the basis of merit and fitness, and, as such, shall result from: recruitment strategies designed to be as broad and inclusive as necessary to best meet the selection need; and candidate performance in selection procedures that assess job-related qualifications, are competitive in nature, are designed and administered to fairly and objectively identify those candidates who meet the selection need, and result in the ranking of candidates based on their job-related qualifications.

(c) Permanent status in permanent appointments to the civil service is achieved after completion of the required probationary period, the final phase of the selection process. Assessment of employee performance during the probationary period shall be made on the basis of merit and fitness, with regard to the individual's qualifications, including his/her knowledge, skills, abilities, experience, education, training, physical and mental fitness, and any other personal characteristics relative to job requirements, and his/her job-related performance.

(d) All phases of the selection process, including recruitment and examining, eligible list creation, appointment, and completion of the civil service probationary period, shall provide for the fair and equitable treatment of applicants and employees on an equal opportunity basis without regard to political affiliation, race, color, ancestry, national origin, sex, sexual orientation, religion, disability, medical condition, age, or marital status.

(e) Nothing herein shall be construed to relieve appointing powers from the obligation to reasonably accommodate individuals with disabilities as required under the Americans with Disabilities Act, the Fair Employment and Housing Act, and the Civil Service Act.

(f) Nothing herein shall be construed so as to contravene the intent and purpose of Article VII, Section 6, of the California Constitution, which provides for the granting of preferences in state civil service to veterans and their surviving spouses.

(g) Intra-departmental job assignment transfers within the same job classification, such as assignments to different work shifts or work locations, or time base changes pursuant to Section 277 do not constitute appointments for purposes of this regulation.

NOTE: Authority cited: Section 18701, Government Code.
Reference: Article VII, Sections 1 and 6, California Constitution; Sections 18500, 18525.3, 18900, 18930, 18950, 18951, 18971-18979, 19050, 19052, 19140, 19171, 19173, and 19702.2, Government Code.